

**PUBLIC NOTICE**  
**INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION**  
**CITY OF SAN JOSÉ, CALIFORNIA**

***Project File Number, Description, and Location***

PDC 03-057, Planned Development Rezoning from A – Agriculture and LI – Light Industrial to A (PD) Planned Development to allow up to 218 multi-family attached residential units on approximately 7.2 gross acres. (City of San Jose & Carroll, Ril, & Gene, Trust, Owners, Charities Housing Development Corporation & Core Development, Developers). Council District: 7

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

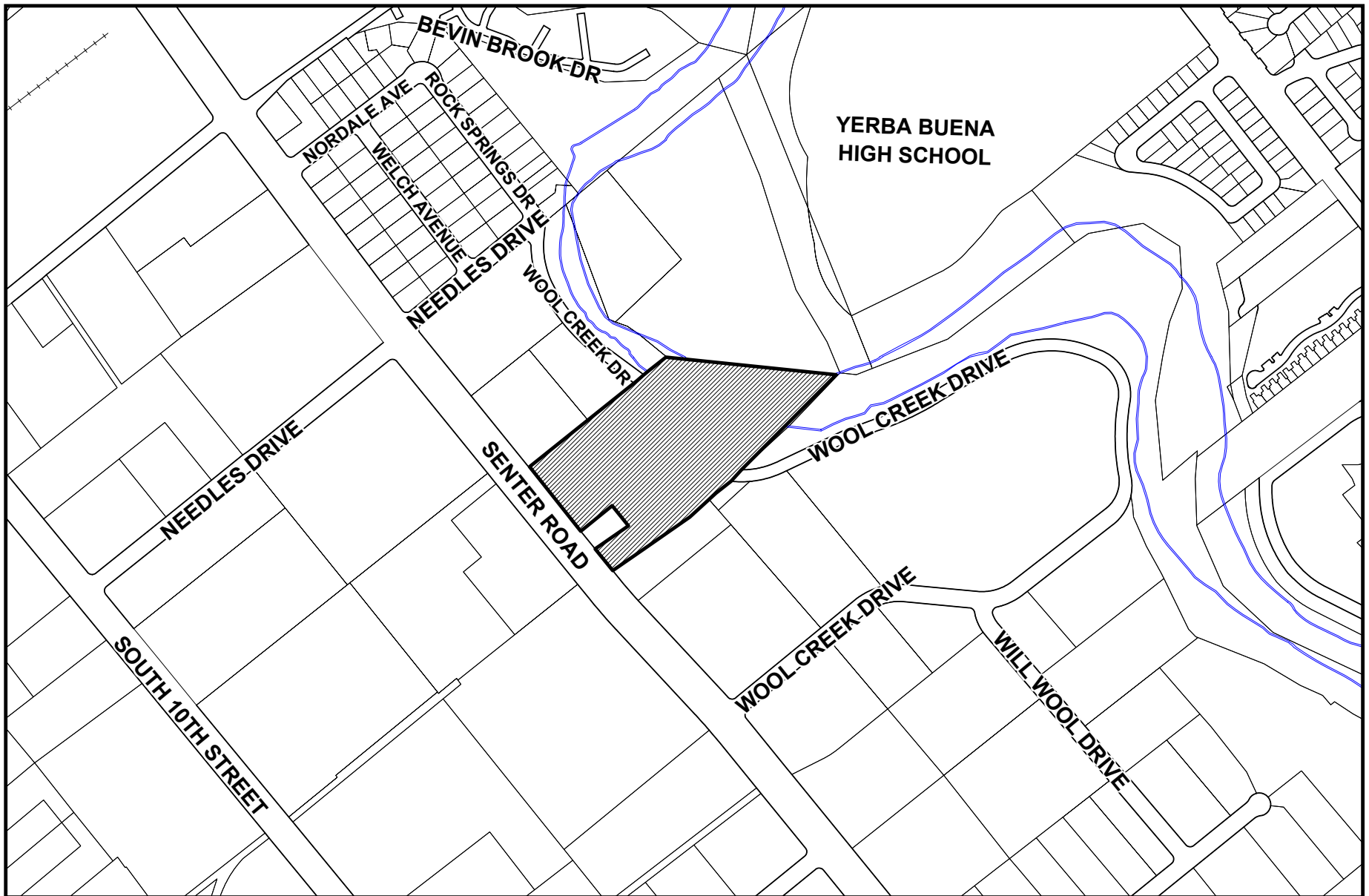
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1,000 feet + of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **June 8, 2004**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **May 10, 2004** and ends on **June 8, 2004**.

A public hearing on the project described above is tentatively scheduled for **June 9, 2004**, at **6:00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the Biblioteca Latinoamericana Branch Library 921 South First Street, San José, CA 95110 San Jose, and online at <http://www.ci-san-jose.ca.us/planning/sjplan/eir/mnd2004.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Jeff Roche** at (408) 277-4576.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Circulated on: May 7, 2004

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Deputy



Scale: 1"=500'

Created on 07/01/03

**File No: PDC03-057**

**District: 07**

**Quad No: 100**

**DRAFT  
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Paseo Senter at Coyote Creek

**PROJECT FILE NUMBER:** PDC 03-057

**PROJECT DESCRIPTION:** Planned Development Rezoning from A - Agriculture and LI – Light Industrial to A (PD) Planned Development to allow up to 218 multi-family attached residential units on approximately 7.2 gross acres.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Easterly side of Senter Road, approximately 600 feet southerly of Needles Drive. 477-20-021, -026, -050; and -132

**COUNCIL DISTRICT:** 7

**NAME OF APPLICANT:** Core Development

**MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:** Attn: Paul Ring, 470 South Market Street, San Jose, CA 95113

**NAME OF APPLICANT:** Charities Housing Development Corporation

**MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:** Attn: Ben Quinn, 465 South First Street, San Jose, CA 95113

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

**1. Air Quality**

The BAAQMD has prepared a list of construction dust control measures that reduce construction impacts to a less than significant level. The following measures will be implemented during all phases of construction on the project site:

- Water all active construction areas at least twice daily.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- Pave, apply water three times daily (except during periods of rainfall), or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.

- Sweep daily (preferably with water sweepers) all paved access roads, parking areas and staging areas at construction sites. Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- All demolition activities will be undertaken according to Cal/OSHA and EPA standards to protect workers and offsite occupants from exposure to asbestos, lead based paint, and other hazardous materials. If friable asbestos-containing materials or materials containing more than one percent asbestos are present, the materials will be handled by a registered asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District (BAAQMD).

## **2. Biological Habitats**

The following mitigation measures are included in the project to avoid or reduce impacts to biotic habitats to a less than significant level:

- Loss of 0.06 acres of canopy will be mitigated at a 3:1 ratio, requiring 0.18 acres of on-site mitigation; and
- Loss of 0.03 acres of herbaceous riparian understory vegetation will be mitigated at a 1:1 ratio, requiring 0.03 acres of on-site mitigation.
- Prior to issuance of a grading permit, the project applicant shall have a detailed riparian restoration plan prepared in consultation with a qualified restoration biologist and the project landscape architect, to the satisfaction of the Director of Planning, Building and Code Enforcement.

## **3. Special Status Plant and Animal Species**

The proposed project includes the following mitigation and avoidance measures to reduce impacts to salmonids during construction to a less than significant level:

- The project will conform to Best Management Practices (BMP) as described under Section 7-1.01G 'Water Pollution' (Caltrans 1992).
- No equipment will be operated in the live stream channel;
- When work in a flowing stream is unavoidable, any stream flow shall be diverted around the work area by a barrier, temporary culvert or a new channel capable of permitting upstream and downstream fish movement. The temporary construction of a diversion structure within a water of the U.S. (jurisdictional water) will require a permit from the USACE.
- Construction of the barrier or the new channel shall normally begin in the downstream area and continue in an upstream direction and the flow shall be diverted only when construction of the diversion is completed.
- No debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum, products or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State.

The mitigation and avoidance measures described above for water quality impacts to steelhead would also reduce impacts to western pond turtles. The proposed project includes the following mitigation measure to avoid or reduce impacts to the western pond turtle to a less than significant level:

- Prior to construction, a qualified biologist will conduct a survey to determine whether western pond turtles use the upland habitats of the project site for nesting. An exclusion fence (18-inch high silt fence buried six inches below the soil surface) shall be installed prior to any construction on site. The fence shall be installed along the length of the riparian corridor, immediately adjacent to the riparian corridor on site during the non-nesting season (mid-August thru May) to prevent turtles from nesting in the upland habitats on site.

The proposed project includes the following mitigation and avoidance measures to avoid or reduce impacts to nesting raptors to a less than significant level:

- In order to avoid impacts to nesting raptors, construction will not occur during the nesting season. Demolition and construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most raptors in the area extends from January through August.
- If it is not possible to schedule demolition and construction between August and January, then preconstruction surveys for nesting raptors will be conducted by a qualified ornithologist or wildlife biologist to ensure that no raptor nests will be disturbed during project implementation. This survey will be conducted no more than 14 days prior to

the initiation of demolition/construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the qualified person will inspect all trees in and immediately adjacent to the impact areas for raptor nests. If an active nest is found close enough to the construction/demolition area to be disturbed by these activities, the ornithologist, in consultation with CDFG for raptors, will determine the extent of a construction-free buffer zone to be established around the nest.

The proposed project includes the following mitigation and avoidance measures to reduce impacts to pallid bats to a less than significant level:

- A pre-demolition survey for roosting bats will be conducted prior to the removal of buildings, particularly those with an attic space, or trees greater than 12.5 inches in diameter at 4.5 feet above grade. Pallid bats occasionally roost in the walls of occupied and abandoned buildings without showing any signs of occupying the attic and will roost in tree branch cavities only six inches in diameter. The survey will be conducted by a qualified bat biologist (i.e. a biologist holding a CDFG collection permit and a Memorandum of Understanding with CDFG allowing the biologist to handle and collect bats). No activities that would result in the disturbance to active roosts would proceed prior to the completed surveys. If no active roosts are found, then no further action would be warranted. If a maternity roost is present, a qualified bat biologist would determine the extent of construction-free zones around active nurseries since these species are known to abandon young when disturbed. CDFG will also be notified of any active nurseries within the construction zone.
- If active maternity roosts or hibernacula are found, the project will be redesigned to avoid the loss of the building or tree occupied by the roost. If an active maternity roost is located and the project cannot be redesigned to avoid removal of the occupied tree or structure, demolition of that tree or structure will commence before maternity colonies form (i.e. prior to March 1) or after young are volant (flying) (i.e., after July 31). The disturbance-free buffer zones will be observed during the maternity roost season (March 1- July 31).
- If a non-breeding bat hibernacula is found in a structure or tree scheduled to be demolished, the individuals will be safely evicted, under the direction of a qualified bat biologist. Demolition will then follow no later than the following day with no less than one night between initial disturbance and increased air flow. This action will allow the bats to leave during dark hours, thus increasing their chance of finding new roosts with a minimum of potential predation during daylight.

The following mitigation measures are included in the project to avoid or reduce riparian corridor impacts:

- Public access should be restricted from the riparian corridor; physical barriers should include fencing or other suitable, more decorative structures, like split rail or iron fencing that are effective at restricting access. Informational signs explaining the sensitivity of riparian corridors should be posted, particularly near potentially suitable access points.
- The entire setback area shall be planted with locally native shrubs and trees compatible with the adjacent riparian corridor according to the detailed riparian restoration plan. Invasive, exotic species should not be used in the landscaping within or adjacent to the riparian corridor or setback area.
- Lighting adjacent to and within the setback zone shall be minimized to the extent practicable and shall incorporate indirect and focused lighting away from the riparian areas.
- Excess surface runoff from parking lots, entrance roads and building roof tops shall not be allowed to enter the streams without some form of pre-treatment (e.g., grease traps, grassy swales, planted stormwater retention/detention basins). Operation and maintenance of facilities shall include vector control measures. Any proposed infiltration devices shall be reviewed by both the City and SCVWD.
- No new outfalls will be constructed as part of site development plans; existing outfalls will be utilized in their existing design configuration.
- Fertilizers and pesticides used within landscape portions of the site shall be applied in a manner that prevents drift of airborne chemicals into the riparian zone/creek and prevents surface runoff and subsurface flow into the creeks, to the extent feasible.
- Site development shall not involve the removal or trimming of existing riparian trees and shrubs along Coyote Creek, except in the context of required maintenance. Any trimming or removal of riparian canopy will occur under the

direction of a certified arborist or qualified biologist and shall not commence without first contacting the California Department of Fish and Game.

- No grading shall occur at the top-of-bank or within the bed, bank or channels of the streams.
- The project will comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific measures would be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:
  - restricting grading to the dry season or meet other City requirements;
  - use silt fencing to retain sediment on the project site;
  - providing temporary cover of disturbed surfaces to help control erosion during construction;
  - provide permanent cover to stabilize the disturbed surfaces after construction has been completed.
- The project would be required to comply with the NPDES General Construction Activity Storm Water Permit issued by the SWRCB. Prior to construction grading, the applicant will file a “Notice of Intent” (NOI) to comply with the General Permit and prepare a Storm Water Pollutant Prevention Plan (SWPPP) which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. A copy of the SWPPP will be submitted to the City of San José Department of Public Works.
- The project will include post-construction structural controls where feasible, and Best Management Practices (BMPs) for reducing contamination in stormwater runoff as permanent features of the project.

The following mitigation measures are included in the project to avoid or reduce potential impacts to trees:

The proposed project shall provide for the replacement of removed trees in conformance with Table 6, below. It should be noted that per the City’s ordinance, plantings for impacts to riparian habitat do not count towards the mitigation for removal of trees outside of the riparian area.

<b>TABLE 6 TREE REPLACEMENT REQUIREMENTS</b>		
<b>Diameter in inches</b>	<b>Mitigation Ratio</b>	<b>Replacement Size</b>
18+ (Ordinance Size)	4:1	24”-box
12-17	2:1	24”-box
1-11	1:1	15-gallon

- The project will replace impacted trees within the portion of the site proposed for the development of residential uses. The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the PD permit stage:
  - An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes.
  - A donation of \$300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Director of Planning, Building, and Code Enforcement prior to issuance of a Grading Permit.

#### **4. Cultural Resources**

Implementation of the following mitigation measures will avoid or reduce impacts to prehistoric resources during construction:

- Should materials be uncovered, standard mitigation measures would be implemented and all work would be suspended within 50 feet of any discovery until a qualified archaeologist has inspected the discovery. If it appears that a significant archaeological deposit has been uncovered, work would not be allowed to restart in the area of

discovery until the project archaeologist has submitted a plan for the evaluation of the resource to the San José Planning Department for approval.

- If it is determined that a significant archaeological deposit will be impacted by further earthmoving, a plan for the mitigation of impacts to the resource will be submitted to the Planning Department for approval before earthmoving recommences in the area of the discovery.

## **5. Geologic**

Conformance with the following measures during final project design and construction would avoid or reduce potential soils and geology impacts to a less than significant level:

- A design-level geotechnical study will be completed to develop specific design criteria for building foundations. The geotechnical study will specifically address soil conditions, ground shaking and the potential for liquefaction. Appropriate foundations could include piles. All geotechnical studies will be submitted to and approved by the City of San José Department of Public Works prior to the issuance of a Grading Permit.
- Seismic shaking hazards will be mitigated by implementation of construction practices in accordance with Seismic Zone 4 building criteria as described in the Uniform Building Code.
- At the time of construction, stabilization of the basement subgrade will be necessary to support construction equipment. Depending on the ground water level at the time of construction, temporary dewatering may be required. The water pumped will be disposed of according to all City and Regional Water Quality Control Board (RWQCB) requirements.
- The project includes implementation of a monitoring program to determine the effects of the construction on nearby improvements, including the monitoring of cracking and vertical movement of adjacent structures. In critical areas, inclinometers or other instrumentation will be installed as part of the shoring system to closely monitor lateral movement.
- In the event pile driving is used for the construction of the project (as described in Section V, K, of this Initial Study), the contractor shall utilize pile-driving equipment with known vibration-generating potential. The contractor shall take into account the potential for vibrations to travel through soils found in this area. The contractor shall calculate striking force that generates vibration at levels below those known to cause architectural damage. During pile driving, the contractor shall conduct monitoring with appropriate instrumentation to ensure that vibration damage does not occur to nearby structures.

## **6. Water Quality**

The project will comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific measures would be implemented to prevent storm water pollution and minimize potential sedimentation during construction.

- Restrict grading to the dry season or meet other City requirements for winterizing the site;
- Use silt fencing or fiber rolls to retain sediment on the project site;
- Providing temporary cover of disturbed surfaces to help control erosion during construction;
- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.
- The Regional Water Quality Control Board (RWQCB) oversees the NPDES general permits for storm water discharges for construction/development projects greater than one acre in size. At the time of construction, the project would be required to submit a Notice of Intent (NOI) to comply with the NPDES General Construction Permit and a Storm Water Pollution Prevention Plan (SWPPP) to the RWQCB 30 days prior to any construction on the site. The SWPPP must specifically address mitigation for both the construction and post construction periods using c3 Provisions and Best Management Practices. The SWPPP would include erosion and sediment control measures, waste disposal controls, post construction sediment, maintenance responsibilities, and non-storm water management controls.
- The project will include post-construction structural controls where feasible, and Best Management Practices (BMPs) for reducing the quantity and improving the quality of stormwater runoff as permanent features of the project. Post-

construction BMPs may include: vegetated swales; minimization of impervious surfaces; and disconnected downspouts.

## 7. Noise

The following mitigation and avoidance measures are included in the project to avoid or reduce noise and vibration impacts to a less than significant level:

- During final design of the project, a detailed acoustical analysis of exterior and interior noise reduction requirements and specifications will be conducted by a qualified Acoustical Specialist in accordance with State and City standards. Project-specific acoustical analyses are mandated by the State for new multi-family uses where noise levels exceed 60 dBA DNL. The analyses will meet the following noise reduction requirements:
  - Interior noise levels shall be reduced to 45 dBA DNL or lower to meet State and local standards.
  - Building sound insulation requirements will include the provision of forced-air mechanical ventilation for all new units, so that windows could be kept closed at the occupant's discretion to control noise.
  - Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for new residential uses adjacent to Senter Road. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, etc. The specific determination of what treatments are necessary would be conducted on a unit-by-unit basis.
  - Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA DNL or lower.
- Noise-sensitive outdoor use areas will be oriented away from roadways and noise-sensitive spaces will be shielded by buildings or noise barriers, whenever possible. On-site noise sources such as ventilation systems planned for the educational and care giving facilities and the parking structures (whether naturally or mechanically ventilated) will be considered to reduce the potential for intra-project noise conflicts.
- Incorporate sufficient setbacks or design and construct noise barriers to reduce traffic noise at common exterior use areas. The final detailed design of the heights and limits of these barriers will be completed at the time that the final grading plan is submitted.
- A "disturbance coordinator" will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator will be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the construction schedule. (The City will be responsible for designating a noise disturbance coordinator and the individual project sponsor will be responsible for posting the phone number and providing construction schedule notices).
- The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities prior to issuance of a grading permit to the satisfaction of the Director of Planning. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities and the event schedule can be scheduled to minimize noise disturbance.
- All internal combustion engine driven equipment shall be equipped with intake and exhaust mufflers which are in good condition and appropriate for the equipment.
- Stationary noise generating equipment shall be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
- Quiet" air compressors and other stationery noise sources shall be utilized where technology exists.
- Multiple-pile drivers will be considered to expedite this phase of project construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced.
- Temporary noise control blanket barriers will shroud pile drivers or be erected in a manner to shield adjacent noise-sensitive land uses. Such noise control blanket barriers can be rented and quickly erected.
- Pile driving activities will be coordinated with adjacent land uses to identify times at which construction could occur while maintaining operations at adjacent land uses similar to normal operation. Land uses located within 200 feet of pile-driving activities shall be notified in writing of the construction schedule.
- Foundation pile holes will be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. The associated noise reduction would be based on the soil conditions of the site.



## USES OF THE MITIGATED NEGATIVE DECLARATION

This Mitigated Negative Declaration is intended to be used in consideration of all the approvals and discretionary actions necessary to construct the proposed project. The approvals include:

Planned Development Zoning and Permit, Tree Removal Permit

## PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **June 8, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Circulated on: May 7, 2004

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Adopted on: \_\_\_\_\_

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